

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.

Paper No. 20

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte PHILIP J. WIEGAND,
LEE R. ESTELLE and
ALAN E. LEWIS

Appeal No. 1997-1040
Application 08/175,893¹

ON BRIEF

Before HAIRSTON, BARRETT and RUGGIERO, Administrative Patent Judges.

HAIRSTON, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 1 through 13. In an Amendment After Final

¹ Application for patent filed December 30, 1993.

(paper number 9), claims 1, 6 through 9 and 11 were amended.

The disclosed invention relates to a lens component, and to a method of making the same. The lens component is comprised of two plastic lens elements cemented together or a plastic lens element and a glass lens element cemented together. The interface between the plastic lens element and the cement is isolated by a glass coating on the plastic lens element.

Claims 1 and 10 are illustrative of the claimed invention, and they read as follows:

1. A lens component comprising:

a plastic lens element having an internal surface covered with a thin glass coating; and
another lens element cemented to said glass coating.

10. A method of cementing a plastic lens element to a glass lens element comprising:

(i) coating said plastic lens element with a layer of thin glass coating; and

(ii) cementing said glass coating of said plastic lens element to said glass lens element, thereby cementing both elements to each other.

The references relied on by the examiner are:

Tillyer	2,092,789	Sept. 14, 1937
Addiss et al. (Addiss)	3,953,652	Apr. 27, 1976
Clarke et al. (Clarke)	4,948,447	Aug. 14, 1990

Claims 1 through 4, 6, 8, 9, 11 and 13 stand rejected under 35 U.S.C. § 103 as being

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unpatentable over Addiss in view of Tillyer.

Claims 1, 5 through 7 and 10 through 12 stand rejected under 35 U.S.C. § 103 as being unpatentable over Clarke in view of Addiss.

Reference is made to the briefs and the answers for the respective positions of the appellants and the examiner.

OPINION

All of the rejections are reversed.

Addiss discloses the use of glass coatings 4 and 6 on both sides of a plastic lens 2 (Figure 1) to make the lens more resistant to abrasions (column 1, lines 18 through 23; column 2, lines 26 through 30 and 56 through 65; and column 5, lines 58 through 63).

Tillyer discloses two glass lens 1 and 2 joined together by cement 3 (Figures 2 through 4).

The examiner is of the opinion (Answer, pages 4 and 5), that “[i]t would have been obvious to one having ordinary skill in the lens art at the time the invention was made to cement the light weight, glass coated optical components or lens elements together, as taught by Tillyer, in order to produce structurally strengthened optical components or lenses.”

Appellants argue (Brief, pages 9 and 10) that the examiner has resorted to hindsight in reconstructing the prior art to demonstrate the obviousness of the claimed invention. According to appellants (Brief, page 11), Addiss is directed to a plastic singlet lens in which “no cemented components were contemplated,” and Tillyer discloses “an ‘all glass’ cemented component.”

Even if we assume for the sake of argument that it would have been obvious to the skilled artisan to cement two of the plastic lens disclosed by Addiss together, neither of the cemented lens would need a glass coating at the interface to the cement because that surface of the plastic lens would not be subjected to the abrasions discussed supra. Stated differently, the skilled artisan would not have looked to Addiss for a teaching of the use of a glass layer to separate a plastic lens from a layer of cement. In summary, we agree with appellants that the examiner did resort to impermissible hindsight in demonstrating the obviousness of the claimed invention based upon the teachings and suggestions of Addiss and Tillyer.

Based upon the foregoing, the obviousness rejection of claims 1 through 4, 6, 8, 9, 11 and 13 based upon the combined teachings of Addiss and Tillyer is reversed.

In the obviousness rejection of claims 1, 5 through 7 and 10 through 12, the reference to Clarke² was cited by the examiner to show that it is known to bond a plastic lens to a glass lens (column 1, lines 6 through 9 and 65 through 67). The examiner states (Answer, page 6) that “[i]t would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the composite ophthalmic lens of Clarke et al with the glass coated plastic lens of Addiss, Jr. et al, in order to improve the overall optical performance.”

² As recognized by Addiss and Clarke (column 1, lines 10 through 15), glass is more scratch resistant than plastic.

We agree with the appellants that the examiner has failed to show the motivation for providing a glass coating on an “internal” surface of a cemented lens component (Reply Brief, page 5). As indicated supra, Addiss is only concerned with making the external surface of the lens component more resistant to abrasions.

In short, the obviousness rejection of claims 1, 5 through 7 and 10 through 12 based upon the combined teachings of Clarke and Addiss is reversed.

DECISION

The decision of the examiner rejecting claims 1 through 13 under 35 U.S.C. § 103 is reversed.

REVERSED

KENNETH W. HAIRSTON)	
Administrative Patent Judge)	
)	
)	
)	BOARD OF PATENT
LEE E. BARRETT)	
Administrative Patent Judge)	APPEALS AND
)	
)	INTERFERENCES
)	
JOSEPH F. RUGGIERO)	
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